

JUN 21 2022

United States District Court
Western District of North Carolina
Deeshun Dade #1608039
Plaintiff,

Clerk, US District Court
Western District of NC

Complaint
Civil Action

No. 1:22-cv-125-MR

V.
FNU) Officer Carlinco
Defendant(s).

~~III~~ Jurisdiction & Venue

1.) This is a civil action authorized by 42 U.S.C. Section 1983 to redress the deprivation under Color of state law, of rights secured by the Constitution of the United States. The Court has jurisdiction under 28 U.S.C. 1331 & 1343 (a)(3). Plaintiff seeks declaratory relief pursuant to 28 U.S.C. Section 2201 & 2202. Plaintiff claims for injunctive relief are authorized by 28 U.S.C. Section 2283 & 2284, and rule 65 federal rule of civil procedure.

2.) The Western district of North Carolina is an appropriate venue ^{under} 28 U.S.C. Section 1391(B)(2) because it is where the events giving rise to this claim occurred.

~~III~~ Plaintiff(s)

3.) Plaintiff, Deeshun Dade #1608039 is & was at all times mentioned herein as a prisoner of the state of North Carolina in the custody of North Carolina DOC. He was housed at the time of the incident at Foothills Correctional Institution & is currently housed at Foothills CI.

~~III~~ Defendant(s).

4.) Defendant, officer Carlinco is a Correctional officer of the North Carolina DOC. Who at all times mentioned herein, was assigned to Foothills CI.

5.) Each defendant is sued ~~under~~ ^{individually} individually in their ~~individual~~ official capacities. At all times mentioned in this complaint, each defendant acted under color of state law.

II. facts

6.) At all times mentioned & relevant to this case, plaintiff was housed on E unit, D-block Cell 404 Chronologically as stated ^{below} ~~below~~.

7.) On May 13th, 2022, Defendant officer Carlino arrived at the plaintiff's cell door at or around 19:05, so the plaintiff could use the shower. Upon being the plaintiff requested a state issued wash cloth & was denied. Once outside the cell door the plaintiff & defendant then proceeded to descend the steps. While descending the steps the defendant began pulling on the plaintiff's arm & started squeezing the plaintiff arm. Once on ground level the plaintiff asked the ^{defendant} "why the fu^{xx} do you keep pulling my ^{arm} ~~arm~~".

8.) In response the defendant stated "When I say jump, you say how high mother fu^{xx}er. I don't gotta let you wash your a^{xx}". The plaintiff then called the defendant a "B. +^{xx}", & made an attempt ^{to} walk towards the shower area. Defendant ^{Carlino} ~~Carlino~~ then proceeded applying force to stop the plaintiff from walking. Then defendant then forced the plaintiff against the metal bars & rammed the plaintiff's head against them.

9.) The defendant & plaintiff then started moving towards the staircase. Once at the stairs the defendant then used the mechanical restraints to cause physical harm by tightening ^{the} ~~the~~ handcuffs as much as possible. While going up the steps, the defendant then attempted to push the plaintiff up the stairs. Upon reaching the top the plaintiff began to resist due to fear of being assaulted while in handcuffs again. The plaintiff was then pinned against the wall ^{by} ~~by~~ the defendant. ^{defendant} ~~defendant~~

10.) After reaching the plaintiff's cell door (B4D4), The defendant then pushed the plaintiff in the cell, then entered himself. The plaintiff jumped onto his bunk & stood in the corner. Defendant Carlineo then rushed in & rammed the plaintiff against the wall. Once free from the defendant, the plaintiff attempted to bring the handcuffs around to the front by stepping through with his legs. While in the middle of attempting, the defendant reached the door to exit & noticed the plaintiff's actions & rushed back into the cell & then started wrestle with the plaintiff. When the plaintiff was on his side in a fetal position the defendant then started assaulting the plaintiff by crushing & punching as well as verbally threatening the plaintiff.

11.) Upon arrival of Sergeant Adkins the plaintiff was released after the defendant was given multiple orders to release the plaintiff. Before leaving the cell the defendant stated "I will blow you & your family head off". Once the defendant left, Sergeant Adkins & OIC Walter spoke to the plaintiff until he was calm, then later looked at the camera footage.

~~Exhaustion~~ Exhaustion & Remedy

12.) Plaintiff has submitted a grievance form to only have them thrown away. Plaintiff is seeking a temporary Relief Order until such time when the plaintiff can comply with 42 U.S.C. § 1997c(e)(a). Plaintiff is reserving the right to pursue or refile this claim should the court deny his request for TRO & compel him to first comply with exhaustion Rules.

~~Legal~~ Legal Claims

13.) Plaintiff, Deeshun Duke, realleges & incorporates by reference in paragraphs 1-12

14.) The failure to protect the plaintiff from harassment & assault as well as violation of the plaintiff's rights, which constitutes cruel & unusual punishment under 8th ^{amendment} ~~man~~.

15.) The plaintiff has no plain, adequate or complete remedy at law to redress the wrongs described therein. Plaintiff has been & will continue to be irreparably injured by the conduct of the defendant unless the courts grant the relief the plaintiff seeks.

Wherefore, Plaintiff respectfully prays this court enter judgment granting plaintiff
16.) A declaration that the acts & omissions described violated his constitutional right.

17.) A preliminary injunction ordering plaintiff to be transferred to Central prison until such time as he can exhaust administrative remedy procedure.

18.) A ~~perpetual~~ ^{temporary} relief order in the interest of justice, for plaintiff protection until such time when he can exhaust administrative remedy procedure.

19.) A preliminary & permanent injunction in the ^{interest} ~~interest~~ of justice, ordering the plaintiff to be moved to Central Prison for his protection until the disposition of the case.

20.) Compensatory damages in the amount of 205,000\$ against defendant officer ^{Carlino} ~~Carline~~.

21.) Punitive damages in the amount of 230,000\$ against defendant officer ^{Carlino} ~~Carline~~.

22.) Nominal damages in the amount of 100,000 against defendant Carlino.

23.) A jury trial on all matters triable by a jury. Plaintiff cost in this suit & any other relief the Court deem just, reasonable & equitable.

~~24.)~~ Previous lawsuits

24.) The plaintiff has filed another lawsuit in federal court.

25.) The plaintiff has filed another lawsuit relating to the conditions of imprisonment

26.) Plaintiff, is Deeshun Dade #1605039.

27.) Defendant(s) are (FNU) sergeant Church, et al

28.) Federal Court in the Western district of North Carolina

29.) Case file #, 1:22-cv-81-MR

30.) judge assigned, Chief judge Martin Reidinger.

31.) Approximate date for filing is 4/14/2022. Case still pending.

Dated: 6/13/2022 ~~xxxxxxxxxx~~ Respectfully ~~signed~~ submitted

- Verification -

I have read the foregoing Complaint & hereby verify that the matters alleged therein as true, except as to matters alleged on information & belief & as to ~~these~~ ^{these} I believe them ~~to~~ ^{to} be true & Certify under penalty of perjury that the foregoing is true & correct.

Executed at Morganton NC, on June 13th, 2022

Plaintiff: Name: Deshun Dade

opus: 1605039

Sign: Deshun Dade

prison address

- 5150 Western ave

Morganton North Carolina 28655